

Boucher, Aimee

From: Fagel, Jason R (DEC) <jason.fagel@dec.ny.gov>
Sent: Friday, August 03, 2018 2:23 PM
To: Boucher, Aimee; Sarah Rickard
Subject: RE: Draft 2018 303(d) questions
Attachments: harbor_sampling_2014-2017(ytd).xls; tmdlpeachlk09.pdf; nycjune2000.pdf; jan09crotontmdl.pdf; EPA 2018 list questions from 072418.docx

Aimee,

See word attachment for responses to your questions in **red** text. Additional data/documents to support the answers are also attached.

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From: Boucher, Aimee [<mailto:Boucher.Aimee@epa.gov>]
Sent: Tuesday, July 24, 2018 9:46 AM
To: Fagel, Jason R (DEC) <jason.fagel@dec.ny.gov>; Rickard, Sarah E (DEC) <sarah.rickard@dec.ny.gov>
Subject: Draft 2018 303(d) questions

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Hi Jason,

I hope you had a relaxing and enjoyable vacation! Thank you for compiling the data and information you've sent me during the NY 2018 303(d) public comment period. I have some follow-up questions about that data as well as some additional delisting concerns.

1. **Brooktrout Lake** – Waters located in the FP are protected under Article XIV of the NYS Constitution and are to be maintained as “forever wild.” What is the narrative criteria that DEC is interpreting to maintain the FP “forever wild” designation? Also, is the lake meeting it’s “forever wild” designation? If so, how?
2. **Muscoot River, Lower and minor tribs (1302-0049)** – As you mentioned, the NYCDEP Muscoot data that the delisting is based on, are only from the Hallock Mill Brook section of the river. Also, you mentioned the reason for not including the entire Muscoot data set was because Hallock Mill Brook and the failing WWTP was the driver for listing. It appears the standard for DO is not met in other segments of the dataset. If only part of Muscoot is meeting standards, how can you delist the waterbody?
3. **Schroon Lake for PCBs** – delisted due to “PCB consumption advisory has been lifted for this waterbody.” There are two applicable WQS that can be applied to waters impaired for PCBs. Either the NYS numeric criterion, or “A less stringent guidance value for an individual substance [in this case, PCBs] may be substituted for this standard if so determined by the Commissioner of the New York State Department of

Health.” What is the DOH substituted value used to lift this advisory and how that value is protective of the designated use?

4. **Nissequogue River, Lower (1702-0025)** – proposed removal from Category 4c due to “listed in error.” The 2010 WI/PWL fact sheet identifies the Verification Status as “4(Source Identified, Strategy Needed). The Verification Status in the 2016 WI/PWL is removed. Do you know what happened here? Would this be something that can be traced in past 305(b) reports? I would be hesitant to remove a water that at one time was designated as impaired without evidence demonstrating that it’s not impaired. If this were on the 303(d) list, it cannot be removed “solely on passage of time and an inability to reassess the waterbody.” (NYSDEC Listing Methodology, March 2017).
5. **Peach Lake (1302-0004); Minor Tribs to Croton Falls Reservoir (1302-0001)** – Prior to the 2016 partial approval/partial disapproval, Peach Lake, impaired for pathogens, and Minor Tribs to Croton Falls Reservoir, impaired for Oxygen Demand and Phosphorus, were designated as IR Category 4b Waters. Through final EPA action on July 10, 2018, these waters are designated as IR Category 5 waters and should be on the 2018 303(d) list. They are not on the draft 2018 list, rather erroneously designated as IR Category 4a waters on the accompanying “List of Integrated Report (IR) Category 4a/b/c Waters.” Why are these waters placed in 4a when there is not a TMDL developed?
6. **Gowanus Canal (1701-0011) for Oxygen Demand** – Appears as an IR Category 4b without a 4b demonstration. In order for this water to remain off the 303(d) list, NYSDEC must provide an adequate 4b demonstration or provide good cause (see 40 CFR Part 130.7(b)(6)(iv)) not to list. Otherwise, it must go on the 303(d) list as a Category 5 water.
7. **Spring Creek (1701-0361) for Pathogens and Oxygen Demand; Paerdegat Basin(1701-0363) for Oxygen Demand** – These waters were partially approved by EPA as Part 3c of the 2016 303(d) list. They are now on the “List of Integrated Report (IR) Category 4a/b/c Waters” as IR Category 4b waters without an adequate 4b demonstration. In order for this water to remain off the 303(d) list, NYSDEC must provide an adequate 4b demonstration or provide good cause (see 40 CFR Part 130.7(b)(6)(iv)) not to list. Otherwise, it must go on the 303(d) list as a Category 5 water.

Please feel free to give me a call if you have any questions. Thanks!!

Aimee

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